REMARKS

This responds to the Final Office Action mailed on September 22, 2004.

Claims 1-38 are now pending in this application.

§102 Rejection of the Claims

Claims 1-3, 5, 8-9, 11-13, 18-19, 24-31, 33 and 35-38 were rejected under 35 USC § 102(e) as being anticipated by Downs et al. (U.S. 6,574,609). It is axiomatic that in order to sustain an anticipation rejection each and every step or element in the rejected claims must be taught or suggested in the cited reference.

Webster defines cache as "a computer memory with very short access time used for storage of frequently used instructions or data." See, www.m-w.com keyword: "cache." The Examiner has indicated in the Final Rejection that she has interpreted the Applicants' "deployment enhancements" as the Digital Content (DC) Library Collection 196 of Downs. Applicants by prior amended had restricted the phrase "deployment enhancements" to include "one or more devices that *cache* portions of the multimedia content." *Emphasis added.*

Clearly, the DC Library of Downs must teach or suggest the inclusion of one or more devices that cache; otherwise the Examiner's analogy fails to read on Applicants' independent claims and fails to meet the legal standard necessary to anticipate Applicants' independent claims. A more complete understanding of the features of the DC Library reveals that there is in fact no teaching or suggestion of caching devices or features within the Downs' DC Library. Thus, for the reasons and remarks presented herein and below, the rejections cannot be sustained.

More specifically, in the previous Office Action the Examiner asserted that the end-user devices 109 of Downs were analogous to Applicants' deployment enhancements. Subsequent to this interpretation by the Examiner, the Applicants amended the independent claims of the invention to define the deployment enhancements as one or more devices that cache the media content. However, with this action, the Examiner now states that the DC Library is the deployment enhancements of Applicants invention. It appears the Examiner is now relying on different aspects of Downs in support of finding Applicants' deployment enhancements.

But, a complete reading of Downs reveals that the DC Library is nothing more than a typical storage medium that houses data. Downs discusses storing and retrieving content from the DC Library, but there is not a single reference to caching within the DC Library or to a storage or retrieval mechanism that may logically lead one to conclude that the DC Library is capable of performing caching.

That is, there is no reference to temporary storage or fast retrieval into or out of the DC Library. Just because the DC Library is storage does not mean that it is appropriate to conclude any storage is cached storage. Such a conclusion is incorrect and does not comport with how caching is understood in the storage arts. One of ordinary skill in the art does not view all storage as cached storage, if this were so there would be no need for the term "cache" since it would be subsumed in the general definition of storage. Applicants cannot find a single indication that would distinguish the DC Library of Downs from that of a general storage medium. Therefore, Applicants assert that the broad interpretation by the Examiner to subsume cache devices into the general definition of a storage medium is overly broad, does not comport with how these terms are understood in the storage arts, and violates the law of claim interpretation.

Applicants would also like to point out that the deployment enhancements are separate from the viewing system in Applicants independent claims. Conversely, in Downs the DC Library is in fact part of the users system. *E.g.*, Downs col. 83; lines 50-53 "songs . . . are stored within a Digital Content Library on his or her system." This also comports with the figures and other description of Downs. In fact, it is because the DC Library is part of the users overall system, that the DC Library does not include caching capabilities. The user has all the desired content locally within his/her DC Library. Therefore, there is no need to cache it for subsequent access because it is already within the local user's DC Library.

As a further illustration of this the Examiner's attention is directed to FIG. 1D of Downs, where the DC Library and the player application for playing the media content are both part of the same end-user device 109. This is but one of many examples and descriptions presented in Downs where each of them describes a DC Library that is in fact part of the same system as the player application. Therefore, this is but another teaching in Downs that differs from Applicants'

requirements which are positively recited in their independent claims; namely, that the deployment enhancements are separate from a viewing system.

Therefore, Applicants believe that the Examiner has improperly interpreted a general storage medium to include a cache device in violation of how cache devices and general storage media are understood in the storage arts for purposes of rendering Applicants' independent claims anticipated. Additionally, the Examiner has failed to recognize that the DC Library and player application of Downs are part of the same end-user device which is not the case in Applicants' independent claims. Thus, Applicants respectfully request that the Examiner reconsider and withdraw the present rejections and allow the pending claims of this invention.

§103 Rejection of the Claims

Claims 4 and 32 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Candelore (U.S. 6,057,872). Claim 4 is dependent from claim 1 and claim 32 is dependent from claim 26. Therefore, for the reasons stated above with respect to claims 1 and 26 these rejections should be withdrawn and claims 4 and 32 allowed.

Claims 6 and 22-23 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. Claim 6 and 22-23 are dependent from claim 1. Therefore, for the reasons stated above with respect to claim 1 these rejections should be withdrawn and claim 1 allowed.

Claims 7 and 10 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Peterson, Jr. (U.S. 5,857,020). Claims 7 and 10 are dependent from claim 1. Thus, for the reasons stated above with respect to claim 1 these rejections should be withdrawn and claims 7 and 10 allowed.

Claim 17 was rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Slotznick (U.S. 6,011,537). Claim 17 is dependent from claim 1. Accordingly, for the reasons stated above with respect to claim 1 this rejection should be withdrawn and claim 17 allowed.

Claims 21 and 34 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Casagrande et al. (U.S. 6,049,892). Claim 21 is dependent from claim 1 and claim 34 is dependent from claim 33. Thus, for the reasons stated above with respect to claims 1 and 33 these rejections should be withdrawn and claims 21 and 34 allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22nd day of November, 2004.

Peter Rebuffoni

Name

Signature